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10/552,451	11/10/2006	Harold Cruz Cabrera	85536-102 RWD	2313

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EXAMINER	
FEARER, MARK D	
ART UNIT	**PAPER NUMBER**
2443	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/552,451	CABRERA ET AL.	
	Examiner	Art Unit	
	MARK D. FEARER	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 October 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. The abstract of the disclosure is objected to because it is not related to the Claimed invention. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5-10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Bartholomew (US 7069310 B1).

Consider claim 1. Bartholomew discloses a file sharing system having, a peer-to-peer file sharing network of the type including: at least one first file storage for storing primary files to be shared;

FIG. 4 is a flow diagram that illustrates the process used by the system to create and post media, in accordance with an embodiment of the present invention. A user is able to create

locally and then transfer to and access from a network server (e.g. an Internet repository web site) various media files. For instance, the invention allows for media files to be stored to a network server and access via various web sites in order to provide creators and users of such files the ability to upload and download from various locations (e.g. network clients). Such a system defines a process where by a user's media files can be stored and listed to a personal web-site list location and/or listed to various other media file listings in order to provide a social "sharing" type environment for such media files. Some creators may even be considered "artists" for creating certain media file types, thus developing users who collector the entire inventory of that creator's recordings [Bartholomew, Column 9 lines 46-62].

and at least one primary client module connected to the first file storage for downloading files from the first file storage and from other clients over the network,

According to an embodiment, the user simply creates the media file, performs any desired signal processing, encodes the file at the user's local computer and then connects to the Service Website or local Website on his personal machine and uploads the file to the Website and selects which web sites to list the file with. Referring to FIG. 4, the flow describes a use of the system in general and may begin at various steps. A first step may be accessing the server and registering as a user 402. For example, the user registers by inputting user information such as user name, email address and provides a login name and password which are used to authenticate with the system each time the user starts a session. A potential registrant may also begin by first downloading the plug-in 404. For example, the user downloads a plug-in (e.g. in order to use the system user needs a browser helper application, or "plug-in"). Also, the helper application may be provided on the server and user may access it and download it on a load storage medium using an application able to transfer files across the network [Bartholomew, Column 9 line 63 - column 10 line 14].

and for uploading files to the first file storage and to other clients in the network, the improvement comprising: a secondary file storage for storing secondary files; a secondary client module connected to the primary client module for downloading secondary files from the secondary file storage, for forming a composite file by appending a secondary file to each primary file downloaded by the primary client module and for causing the primary client module to upload only the composite file.

The network link 121 typically provides data communication through one or more networks to other data devices. For example, network link 121 may provide a connection through local network 122 to a host computer 123 or to data equipment operated by an Internet Service Provider (ISP) 124. ISP 124 in turn provides data communication services through the world wide packet data communication network now commonly referred to as the "Internet" 125. Hereinafter, "the Internet" will be used to refer to the Internet itself as well as other types of Intranets, networks, distributed servers, or client/server architectures where a computer gaming system is desired and applicable [Bartholomew, Column 5 lines 56-67].

Consider claim 2, as applied to claim 1. Bartholomew discloses a system wherein the primary file, secondary file and composite file are all media files with an ID tag appended thereto identifying the content of the files.

Upon receipt of a data block, the server appends the data block information received from the client into a data file and stores the identifier newly obtained into a database 680. After each block of data received the server checks whether the total size of data received is equal to or has exceeded the total size of the file being uploaded 682 (e.g. total size of file being uploaded as previously communicated to the server by the client at step 655). If the total data file size has been reached or exceeded, the server closes the data file and stores the data 684 [Bartholomew, Column 15 lines 36-45].

Consider claim 3, as applied to claim 2. Bartholomew discloses a system wherein the secondary client module includes a means for interrogating the ID tag of a primary file for selecting a secondary file compatible with the ID tag.

FIG. 6b is a flow diagram that illustrates the process used by the system on the server side during the transfer of a data file from the client to the server, in accordance with an embodiment of the present invention. The server tests whether the connection with the client is successful 650. After a connection is successfully established the server receives the information header from the client 655. The header, for example, may include plug-in information such as the plug-in unique identifier, and information about the data file to be uploaded to the server (e.g. file size). The server validates the user at step 660, for instance, by comparing the ID received in the header received from the plug in with data in a database [Bartholomew, Column 15 lines 12-24].

Consider claim 5, as applied to claim 1. Bartholomew discloses a system wherein the secondary file storage includes a management console to monitor and control all uploaded secondary files.

For example, FIG. 7a shows the process used by the system on the client side to request control file from the server, in accordance with an embodiment of the present invention. Once the plug-in is invoked, it connects to the provider's server and requests a control file 710 by sending a request to the application provider server. The plug-in then checks to see if a response from the server is received 720. Once a response from the server is received 730 the server proceeds by decrypting the encrypted string in order to obtain the connection location information for connection with the server 740. For example, the server's response may consist of an acknowledgement of the client plug-in request in the form of a text string and an

encrypted string. Decryption of the string gives the plug in location information, such as a URL, so that the plug-in can communicate with the server in order to upload new media files. In addition, the plug-in displays plug-in or helper application screens 750. According to embodiments of the invention portions of the text string and/or encrypted string are used by the plug-in to provide the user with specific instructions and/or information in accordance with server based control parameters and other requirements and system parameters. For instance, once a connection is established in accordance with the connection information, the plug-in application proceeds by displaying a user interface enabling the user to record or load media files and/or upload media files onto the application server [Bartholomew, Column 12 line 56 - column 13 line 15].

Consider claim 6, as applied to claim 1. Bartholomew discloses a system wherein the secondary file storage stores, displays, and reports statistical information about secondary files uploaded to the secondary client module.

FIGS. 6a and 6b are flow diagrams that illustrate the process used by the system to upload or transfer a file to the server, in accordance with an embodiment of the present invention. For example, FIG. 6a describes the client application steps involved during the uploading of a data file. When the user issues an "upload" command through the user interface in order to upload a file for instance, the client application collects the system information necessary to perform data uploading 600. For instance, the client application obtains its unique identifier (e.g. the unique identifier generated during the installation process 406) from its execution environment's registry. The application may also obtain the resource locator information (e.g. URL) previously obtained from the application server during the launching of the plug-in [Bartholomew, Column 14 lines 36-50].

Consider claim 7. Bartholomew discloses a method of operating a peer-to-peer file sharing network including: at least one first file storage for storing primary files to be

shared; at least one client connected to the first file storage for downloading files from the first file storage and from other clients over the network, and for uploading files to the first file storage and to other clients in the network, said method comprising: providing a secondary file storage storing secondary files in the secondary file storage; downloading a primary file; downloading a secondary file; forming a composite file by appending a secondary file to the primary file; and uploading the composite file to the network [Bartholomew, Column 5 lines 56-67 and Column 9 line 46 – column 10 line 14].

Consider claim 8, as applied to claim 7. Bartholomew discloses a method further comprising the steps of: receiving a request for a primary file from a user through the client module; identifying a primary file ID tag forming part of the primary file; matching the primary file ID tag with a compatible secondary file; downloading the compatible secondary file to the client module; forming a composite file by appending the compatible secondary file to the primary file; and uploading the composite file to said user [Bartholomew, Column 14 lines 36-50].

Consider claim 9, as applied to claim 7. Bartholomew discloses a method wherein the secondary file is dynamically appended to the primary file [Bartholomew, Column 15 lines 36-45].

Consider claim 10, as applied to claim 7. Bartholomew discloses a method further comprising including in the composite file an encrypted data segment to prevent unauthorized decoupling of the secondary file and the primary file.

> If the client request is permitted at 780, the server then sends the requested control instructions to the client 790 (e.g. see steps 730 and 740 of FIG. 7a). For instance, the server may generate resource locator information (e.g. a URL string) and send to the client an encrypted version of this information in combination with other configuration information (e.g. a text string) [Bartholomew, Column 13 lines 40-46].

Consider claim 12, as applied to claim 1. Bartholomew discloses a system including recording statistical information about the downloading and uploading of secondary files.

> Thus, a creator and/or system user may keep a personal database of media files on a computer at home and/or in a database on a server. In such a case, an user of a PC having an audio and/or video mixing and recording system may record, signal process, encode, and upload the desired media to the server database for future use. Thus, a version of media from at any point in the recording, processing, encoding processes may be stored in the user's local computer, while the final processed version (e.g. edited, combined with other media, re-edited, condensed, and encoded file) is uploaded and stored on the server. The computer systems described above are for purposes of example only. An embodiment of the invention may be implemented in any type of computer system or programming or processing environment [Bartholomew, Column 9 lines 31-45].

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartholomew (US 7069310 B1) in view of Dujari (US 6199107 B1).

Consider claim 4, as applied to claim 1. Bartholomew discloses a system and method for creating and posting media lists for purposes of subsequent playback

wherein the secondary client module is integrated with the client module of the peer-to-peer file sharing network.

However, Bartholomew does not implicitly disclose a system or method comprising a method of file sharing network through an application programming interface.

Dujari discloses a partial file caching and read range resume system and method comprising a method of file sharing network through an application programming interface.

> FIG. 2 shows a generalized conceptual model of the present invention wherein a network application 60 such as a browser in a client machine (e.g., the personal computer system 20) communicates via APIs 61 and a network interface 62 with a server (e.g., the remote computer 49) in order to download content 64 therefrom. Communication between the client 20 and the server 49 preferably uses a well-known network protocol, such as hypertext transfer protocol (HTTP), and the network interface 62 preferably comprises the Wininet.dll application programming interface. As used herein, "server" or "network server" includes any machine or combination of machines having content thereon. Network servers may thus include HTTP "web sites," including those having sites with different names (which may be regarded as different virtual servers even if they are hosted on the same physical machine). Note that a web site may be distributed over many virtual servers, which in turn may be distributed over many physical machines [Dujari, column 3 line 55 - column 4 line 5].

Bartholomew discloses a prior art system and method for creating and posting media lists for purposes of subsequent playback wherein the secondary client module is integrated with the client module of the peer-to-peer file sharing network upon which the claimed invention can be seen as an improvement.

Dujari teaches a prior art comparable partial file caching and read range resume system and method comprising a method of file sharing network through an application programming interface.

Thus, the manner of enhancing a particular device (partial file caching and read range resume system and method comprising a method of file sharing network through an application programming interface) was made part of the ordinary capabilities of one skilled in the art based upon the teaching of such improvement in Dujari. Accordingly, one of ordinary skill in the art would have been capable of applying this known improvement technique in the same manner to the prior art system and method for creating and posting media lists for purposes of subsequent playback wherein the secondary client module is integrated with the client module of the peer-to-peer file sharing network of Bartholomew and the results would have been predictable to one of ordinary skill in the art, namely, one skilled in the art would have readily recognized a system and method of a file sharing framework.

Consider claim 11, as applied to claim 10. Bartholomew, as modified by Dujari, discloses a method further comprising decoding the encrypted data segment,

> For example, FIG. 7a shows the process used by the system on the client side to request control file from the server, in accordance with an embodiment of the present invention. Once the plug-in is invoked, it connects to the provider's server and requests a control file 710 by sending a request to the application provider server. The plug-in then checks to see if a response from the server is received 720. Once a response from the server is received 730 the server proceeds by decrypting the encrypted string in order to obtain the connection location

information for connection with the server 740. For example, the server's response may consist of an acknowledgement of the client plug-in request in the form of a text string and an encrypted string. Decryption of the string gives the plug in location information, such as a URL, so that the plug-in can communicate with the server in order to upload new media files. In addition, the plug-in displays plug-in or helper application screens 750. According to embodiments of the invention portions of the text string and/or encrypted string are used by the plug-in to provide the user with specific instructions and/or information in accordance with server based control parameters and other requirements and system parameters. For instance, once a connection is established in accordance with the connection information, the plug-in application proceeds by displaying a user interface enabling the user to record or load media files and/or upload media files onto the application server. FIG. 7b is a flow diagram that illustrates the process used by the system on the server side to generate and provide a control file requested by the client application, in accordance with an embodiment of the present invention. Here, the server checks to see if a request from the client is received 760. Once a request from the client is received the server processes the request information 770. For example, the server may receive a request from the client for a control file through a hypertext transfer protocol (e.g. see step 710 of FIG. 7a). In an embodiment, the server records the information provided by the client and uses that information to generate a control file. Information contained in the request may be used to gather statistics information, perform authentication or carry out various server based information processing tasks. The server checks to see if the client request or requests are permitted 780. For example, the client request may not be permitted if the user's account is overdue or if the request is made by an unauthorized or unregistered copy of a plug-in. In such non-permitted instances, the server will send an access denied message to the client and may also send alternative control instructions so that the user can be informed as to the "what, why, and how" of the denial as well as potential cures or actions available 785 [Bartholomew, Column 12 line 56 - column 13 line 39].

decoupling the secondary file from the primary file and appending a new secondary file to the primary file.

To store and retrieve cached files, the cache manager component 66 converts server references (URLs) to local file system filenames. Although URL names and the like provided by servers often resemble filenames, certain characters in the URL name may not be allowed in a particular file system, and thus appropriate characters are substituted as necessary. Also, the name may be decorated, say by appending a number, to distinguish it from a file for a similar but different URL. The cache manager 66 handles the creation and removal of files and directories, and the opening, reading and writing files. To this end, the cache handling mechanism 66 accesses a table of cache information 71 or the like to maintain appropriate file names for interfacing with the file system APIs 68 [Dujari, column 4 lines 21-34].

Conclusion

6. Any response to this Office Action should be faxed to (571) 273-8300 or mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Mark Fearer whose telephone number is (571) 270-1770. The Examiner can normally be reached on Monday-Thursday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Mark Fearer
/M.D.F./
July 10, 2009

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2443